

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KIRSTEN NINALTOWSKI nee STADLER	:	CIVIL ACTION
	:	
v.	:	NO.: 5:20-cv-01808-JMG
	:	
TJ MOORE, OLD DOMINION FREIGHT	:	
LINE, INC. and OLD DOMINION FREIGHT	:	
LINE CO.	:	
	:	

ORDER

AND NOW, this _____ day of _____ 2021, it is hereby **ORDERED** that the Defendants' Motion to Enforce Subpoenas is **GRANTED**; and it is further

ORDERED and DECREED that the following locations and/or medical providers provide any and all records in their possession, custody or control responsive to Defendants' subpoenas, including any and all medical and/or employment records regarding plaintiff Kirsten Ninaltowski (nee Stadler), as well as a signed Certificate of Authenticity regarding same:

- Arnold S. Witte, MD;
- CVS Pharmacy;
- Rothman Institute;
- Capital Health Systems Primary Care (Dr. Maria Chavez Santos, MD);
- USAA Insurance;
- NJ Department of Human Services;
- Blue Cross Blue Shield of NJ;
- Princeton Orthopedics (Dr. Nirav Shah);
- Rony Nazarian MD;
- Bela Patel MD; and
- Stacey Ann Miller-Smith MD; and it is further

ORDERED and DECREED that full and complete responses to Defendants' subpoenas, with signed Certificates of Authenticity, must be served by the foregoing locations and/or medical providers to Weber Gallagher Simpson Stapleton Fires and Newby LLP, 2000 Market Street, Suite 1300, Philadelphia, PA, within ten (10) days of the date of this Order; and it is further

ORDERED and DECREED that failure to comply with this Order may result in sanctions, including monetary sanctions and/or contempt of Court, upon further application to the Court.

BY THE COURT:

J.

Discovery Ends: July 9, 2021

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	:	

NOTICE OF PRESENTATION

To:

Ryan Kilmer, Esquire
Stark & Stark
777 Township Line Road - Suite 120
Yardley, PA 19067

Arnold S. Witte, MD
Capital Health Institute for Neurosciences
Two Capital Way - Suite 456
Pennington, NJ 08534

CVS Pharmacy
1099 Route 33
Hamilton Square, NJ 08690

Rothman Institute
1225 Whitehorse Mercerville Rd
Building D, Suite 220
Mercerville, NJ 08619

Capital Health Systems Primary Care
Dr. Maria Chavez Santos, MD
1445 Whitehorse-Mercerville Road
Suite 103
Hamilton, NJ 08619

Blue Cross Blue Shield of NJ
PO Box 820
Newark, NJ 07101

NJ Family Care
NJ Department of Human Services
Division of Medical Assistance and Health
Services
PO Box 712
Trenton, NJ 08625-0712

Dr. Nirav Shah
Princeton Orthopedics
Princeton Brain and Spine Care-Princeton
731 Alexander Road - Suite 200
Princeton, NJ 08540-6345

Rony Nazarian, MD
Princeton Orthopedics
11 Centre Drive
Monroe Township, NJ 08831

Bela A. Patel, MD
54 Robbinsville Allentown Rd
Robbinsville Twp, NJ 08691
609-586-0300

Dr. Stacey Ann Miller-Smith, MD
340 Scotch Road, Suite 1
Ewing, NJ 08628

Please take notice that Defendants' Motion to Enforce the Subpoenas will be presented to the Court on (See date supplied by electronic filing response of Court) at 9:00 a.m. in Courtroom ____.

**WEBER GALLAGHER SIMPSON STAPLETON
FIRES & NEWBY, LLP**

By: /s/ Laura A. Sieder
JUNE J. ESSIS, ESQUIRE
LAURA A. SEIDER, ESQUIRE
2000 Market Street, Suite 1300
Philadelphia, PA 19103
Attorneys for Defendants,
TJ Moore, Old Dominion Freight Line, Inc.
and Old Dominion Freight Line Company

Dated: May 4, 2021

**IN THE UNITED STATES DISTRICT COURT
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	:	

DEFENDANTS' MOTION TO ENFORCE SUBPOENAS

Defendants, by and through their counsel, Weber Gallagher Simpson Stapleton Fires & Newby LLP, hereby file this Motion to Enforce Subpoenas directed to: Arnold S. Witte, MD; CVS Pharmacy; Rothman Institute; Capital Health Systems Primary Care (Dr. Maria Chavez Santos, MD); USAA Insurance; NJ Department of Human Services; Blue Cross Blue Shield of NJ; Princeton Orthopedics (Dr. Nirav Shah); Rony Nazarian MD; Bela Patel MD; and Stacey Ann Miller-Smith MD; and in support thereof aver as follows:

1. Plaintiff alleges personal injuries as a result of a motor vehicle accident on or about July 6, 2018.

2. On or about August 6, 2020, subpoenas were served at the businesses of Arnold S. Witte, MD; CVS Pharmacy; Rothman Institute; Capital Health Systems Primary Care (Dr. Maria Chavez Santos, MD); USAA Insurance; and NJ Department of Human Services pursuant to F.R.C.P Rule 45, to obtain all medical, billing, and insurance records regarding plaintiff, Kirsten Ninaltowski (nee Stadler). HIPAA authorizations for the release of records executed by Plaintiff were served on November 10, 2020. *See* Subpoenas served on August 6, 2020, and HIPAA authorizations dated November 10, 2020 attached hereto collectively as Exhibit "A."

3. On or about December 14, 2020, a subpoena was served at the business of Blue Cross Blue Shield of NJ pursuant to F.R.C.P Rule 45, to obtain all medical, billing, and insurance records regarding plaintiff, Kirsten Ninaltowski (nee Stadler). A HIPAA authorization for the release of records executed by

Plaintiff was served on March 22, 2021. *See* Subpoena served on December 14, 2021, and HIPAA authorization dated March 22, 2021, attached hereto collectively as Exhibit “B.”

4. On or about January 19, 2021, a subpoena was served at the business of Princeton Orthopedics (Dr. Nirav Shah) pursuant to F.R.C.P Rule 45 to obtain all medical records regarding plaintiff, Kirsten Ninaltowski (nee Stadler). A HIPAA authorization for the release of records executed by Plaintiff was served on March 22, 2021. *See* Subpoena served on January 19, 2021, and HIPAA authorization dated March 22, 2021, attached hereto collectively as Exhibit “C.”

5. On or about February 9, 2021, subpoenas were served at the businesses of Rony Nazarian MD; Bela Patel MD; and Stacey Ann Miller-Smith MD, pursuant to F.R.C.P Rule 45, to obtain all medical, billing, and insurance records regarding plaintiff, Kirsten Ninaltowski (nee Stadler). HIPAA authorization for the release of records executed by Plaintiff were served on March 22, 2021. *See* Subpoenas served on February 9, 2021, and HIPAA authorizations dated March 22, 2021, attached hereto collectively as Exhibit “D.”

6. Numerous follow up letters and calls were made to each of these providers and locations, but Defendants have not received a response to the subpoenas, nor good faith inquiries from any of the providers.

7. Upon information and belief, the afore-mentioned medical providers and locations relevant information regarding medical treatments provided to Plaintiff, which is critical to the defense in this case.

8. The providers’ failure to provide responsive documentation to the properly issued subpoenas has prejudiced Defendants and their ability to prepare a proper defense in this case.

9. In light of the fact that these providers have not yet responded to Defendants’ requests, Defendants have been forced to file the within motion to compel the aforementioned records.

10. Pursuant to F.R.C.P Rule 45 (d)(2) the Court may issue appropriate sanctions for a party’s failure to comply with subpoenas.

WHEREFORE, Defendants respectfully requests that this Honorable Court grant their Motion to Enforce the Subpoenas and enter the Proposed Order filed herewith.

Respectfully submitted,

**WEBER GALLAGHER SIMPSON STAPLETON
FIRES & NEWBY, LLP**

By: /s/ Laura A. Sieder
JUNE J. ESSIS, ESQUIRE
LAURA A. SEIDER, ESQUIRE
2000 Market Street, Suite 1300
Philadelphia, PA 19103
Attorneys for Defendants,
TJ Moore, Old Dominion Freight Line, Inc.
and Old Dominion Freight Line Company

Date: May 4, 2021

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CERTIFICATE OF GOOD FAITH

The undersigned counsel for moving party hereby certifies and attests that she has had the contact described below with the unrepresented parties regarding discovery matters contained in the foregoing discovery motion to resolve specific discovery disputes at issue and despite all of counsel's good faith attempts to resolve this dispute, counsel has been unable to do so.

DESCRIPTION: Counsel for Defendants issued Subpoenas and served executed Authorizations to the following providers: Arnold S. Witte, MD, CVS Pharmacy, Rothman Institute, Capital Health Systems Primary Care (Dr. Maria Chavez Santos, MD), USAA Insurance, NJ Department of Human Services, Blue Cross Blue Shield of NJ, Princeton Orthopedics (Dr. Nirav Shah), Rony Nazarian MD, Bela Patel MD, and Dr. Stacey Ann Miller-Smith MD to obtain medical records pertaining to Kirsten Ninaltowski (aka Stadler). Despite numerous follow-up phone calls and correspondence, no responsive documentation has been received.

**WEBER GALLAGHER SIMPSON STAPLETON
FIRES & NEWBY, LLP**

By: /s/ Laura A. Sieder
 JUNE J. ESSIS, ESQUIRE
 LAURA A. SEIDER, ESQUIRE
 2000 Market Street, Suite 1300
 Philadelphia, PA 19103
 Attorneys for Defendants,
 TJ Moore, Old Dominion Freight Line, Inc.
 and Old Dominion Freight Line Company

Date: May 34, 2021

VERIFICATION

I, Laura A. Seider, Esquire, state that the facts set forth in the foregoing Motion to Enforce Subpoenas are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of perjury relating to unsworn falsification to authorities.

/s/ Laura A. Seider

Laura A. Seider, Esquire

Dated: May 4, 2021

CERTIFICATE OF SERVICE

I, Laura A. Seider, Esquire, hereby certify that on this 4th day of May, 2021, a true and correct copy of the Defendant's Motion to Enforce Subpoenas were served via e-filing and/or regular mail upon the following:

Ryan Kilmer, Esquire
Stark & Stark
777 Township Line Road - Suite 120
Yardley, PA 19067

Arnold S. Witte, MD
Capital Health Institute for Neurosciences
Two Capital Way - Suite 456
Pennington, NJ 08534

CVS Pharmacy
1099 Route 33
Hamilton Square, NJ 08690

Rothman Institute
1225 Whitehorse Mercerville Rd
Building D, Suite 220
Mercerville, NJ 08619

Capital Health Systems Primary Care
Dr. Maria Chavez Santos, MD
1445 Whitehorse-Mercerville Road
Suite 103
Hamilton, NJ 08619

Blue Cross Blue Shield of NJ
PO Box 820
Newark, NJ 07101

NJ Family Care
NJ Department of Human Services
Division of Medical Assistance and Health
Services
PO Box 712
Trenton, NJ 08625-0712

Dr. Nirav Shah
Princeton Orthopedics
Princeton Brain and Spine Care-Princeton
731 Alexander Road - Suite 200
Princeton, NJ 08540-6345

Rony Nazarian, MD
Princeton Orthopedics
11 Centre Drive
Monroe Township, NJ 08831

Bela A. Patel, MD
54 Robbinsville Allentown Rd
Robbinsville Twp, NJ 08691
609-586-0300

Dr. Stacey Ann Miller-Smith, MD
340 Scotch Road, Suite 1
Ewing, NJ 08628

WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY, LLP

By: /s/ Laura A. Sieder
Laura A. Seider, Esquire